

Minutes of the August 24, 2012 Regular Council Meeting

Call to Order and Flag Salute at 3:30 pm by Mayor Serio.

Council in Attendance: Serio, Bunting, Langan, Weistling, Carmean, Tingle and Smallwood

Absent: None

President's Report

- Mayor Serio reported that Council Officers for 2012-2013 are as follows: Audrey Serio (Mayor, President of Council), Gene Langan (Vice-Mayor), R. Gardner Bunting (Treasurer) and Diane Tingle (Secretary).
- Mayor Serio asked for volunteers for Town Committees and Commissions. Volunteer Sign-up forms are available at Town Hall and on line. Mrs. Serio thanked all those who served this past year for their service.
- A Rain Garden display is on view in the lobby of Town Hall. The Fenwick Island Barefoot Gardeners hosted a flower show and the display was awarded a first place prize. The Rain Garden effort is the result of a partnership with the Center for the Inland Bays. Mayor Serio noted that the Federated Garden Club judged the Flower Show and awarded the Fenwick Island Barefoot Garden Club a 98% score, one of the highest scores ever given by the Federated Garden Club.
- The Bethany-Fenwick Chamber of Commerce Lifeguard of the Year Award was given to Andrew Majewski. The Town has received a \$500 donation from the Chamber to help fund lifeguard coverage after Labor Day.
- The Town will begin a review of its Policy and Personnel Manuals. They were updated 5 years ago.

Topics for Discussion and Possible Action

- a. Resolution #58-2012 Tree Canopy Density Goal – Mayor Serio

Mayor Serio read a portion of the Resolution into the record (full text included with these minutes).

Motion to approve – Council Member Carmean

Second – Council Member Langan

DISCUSSION – Council Member Carmean noted the addition of “public” grounds when considering those areas to be considered under the resolution.

Vote: All in favor (7-0)

- b. Approve Comprehensive Plan 5-year Review Document – Mayor Serio

Motion to approve – Council Member Tingle

Second- Council Member Bunting

DISCUSSION – None

Vote: All in favor (7-0)

- c. Mobi Mats – Town Manager Burke

Mr. Burke advised that it will cost the Town \$17,760.60 in order to finish outfitting the remaining beach crossovers with Mobi Mats. These are Essex, Farmington and James Streets.

Motion to approve purchase – Council Member Tingle

Second – Council Member Langan

DISCUSSION – None

Vote: All in favor (7-0)

- d. Median Landscaping – Town Manager Burke

Mr. Burke advised that Sposato Landscaping, currently under contract with the Town for landscaping services, has reviewed and evaluated the conditions of all medians. DelDOT is performing safety studies in the State and have suggested removing some overgrown plants. They request a master plan be submitted and a “right-of-way” agreement be executed before beginning work. Mr. Burke advised that surplus funds from FY12 and some reserves in the current budget will cover the cost of rehabilitating the medians.

DISCUSSION – David Smith, Sposato designer, advised that they have evaluated the current condition and are recommending replacing some with native plants, plants that are low maintenance and plants that are drought resistant. Mr. Smith asked what Council’s vision is of the renovated medians. A discussion followed of whether The State requires certain plants be used and the height of those plants already there vs. those that will be installed.

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Town Manager Burke suggested that the scope of work be refined and that a Town Committee be appointed to review each island, review the State and DelDOT list and continue to work with Sposato to complete the project.

Mayor Serio appointed Council Member Carmean to continue working with Sposato and to form a group to work on the project. Mr. Smith could not offer a time line for completion adding that much will depend on whether the areas are irrigated and if the weather is dry or rainy in the Fall/Spring.

Council Member Weistling asked for an explanation of the \$1800 charge under General Maintenance in the Sposato proposal that was distributed to Council for consideration today and if the required drawings will be included in the cost. Town Manager Burke advised that the charge is to remove crape myrtles and other trees, to add compost and to perform other work related to the rehabilitation of the area. Mr. Smith advised that usually there is no additional cost for the drawing.

No further action taken at this time.

e. Sidewalks at Town Hall and Park – Town Manager Burke

Town manager Burke has contacted Landmark Engineering who completed an update in 2011 of's original Pedestrian Plan Project. DelDOT supports installing sidewalks and other pedestrian improvements but does not have funds to assist the Town with the project. Municipal Street Aid funds are available to cover the estimated cost of \$15-\$25,000 for installation at the Town Park; he further believes that funding may be available from other sources to expand the project across the front of Town Hall.

DISCUSSION – Mr. Burke explained that the Town has paid Landmark Engineering for a general study but requests additional allocation of funds for specific construction and engineering plans. Council Member Smallwood noted that the Town recently completed a renovation of the Town Hall parking lot and that a sidewalk project would tear up some of what was done. Mayor Serio advised that the Town needs to provide handicap ramps at several locations and that this would be a starting point for a general sidewalk project. Council Member Langan suggested doing a portion every year until the project is complete. In response to a question from Council Member Weistling, Mayor Serio noted that it is advisable to use an engineer to oversee the project as it might be an issue if/when the Town seeks grant funding.

Town Manager Burke summarized the project: Phase 1 (Cannon Street to the end of the park) will consist of 25'-30" of sidewalk, and at least 3 handicap ramps.(\$2900 for engineering service); Phase 2 (park to Bayard Street) will mean the loss of 2 parking spaces in front of Town Hall and disturbing the rock garden on the corner of Bayard Street. One handicap ramp will be added. He is open to suggestions from council and to seeking more engineering bids. Council Member Weistling suggested using Landmark Engineering for the 1st block as a "pilot project." The Town will lose 2 parking spaces in front of Town Hall; Mr. Burke advised that the Town can recapture one space as there is a handicap space near the Public Safety Building that does not meet ADA specifications; there will be 2 handicap spaces remaining. In responding to Council questions, Mr. Burke advised that there may be grants available in the future and that MSA funding (\$32,000) does allow the Town to use funds for this purpose.

Motion to do both the area fronting the Town Park and the area fronting Town Hall from Cannon Street to Bayard Street and to use Landmark Engineering as the engineering contractor – Council Member Langan

Second – Council Member Smallwood

Vote: All in favor (7-0)

f. 2012 Street Repaving – Town Manager Burke

Town Manager Burke advised that there is ~\$200,000 in the FY13 Capital Budget for this project. Kercher Engineering reviewed the 2011 street maintenance list with him. Activities consist mainly of patching and overlay. Kercher has submitted a proposal for contract related activities (~\$16,000). The repaving project must be let out for bid. Mr. Burke hopes to discuss bids by September 28, 2012 and that the project period will be October – December 2012.

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Motion to allow the Town Manager to enter into an agreement with Kercher Engineering to prepare contract documents, contract administration services and inspections for the Fenwick Island Fall 2012-Spring 2013 Capital Budget Street Repaving and Drainage Project at a cost not to exceed \$20,000 – Council Member Weistling
Second – Council Member Bunting

DISCUSSION – Council Member Weistling noted that, based on past experience, a limit of \$20,000 should be adequate. The next step will be to put out bids and Council will choose to accept a bid should they decide to proceed.

Vote: All in favor (7-0)

g. Fine Schedule for Ordinance Violations – Council Member Weistling

Council Member Weistling advised that both the Town Solicitor and the Chief Magistrate agree that whatever will make it easier to understand the Town's fine structure will be most welcome. The Town Solicitor advised that an Ordinance should be created to remove the schedule from each or all of the ordinances. The proposal is to remove the fee schedule from the ordinance, create a Fine Schedule for Ordinance Violations, and pass the new schedule yearly or to just index the Fine Schedule.

DISCUSSION – Council Member Carmean asked if this would require the Council to amend each Ordinance and suggested that indexing the Fine Schedule would allow the Town to change each ordinance as time allowed. Building Official Schuchman advised that each and every Ordinance could be amended; a Resolution would support all Ordinances not just an individual Ordinance. Town Manager Burke advised that this sample ordinance contains explicit language to allow payment of fines directly to Town Hall thus increasing revenue. Council Member Tingle noted that a separate resolution can be reviewed annually when the budget process begins.

Motion that the fine schedule be taken out of the Ordinances and set up as a separate resolution – Council Member Weistling

Second – Council Member Carmean

Vote: All in Favor (7-0)

Approval of Minutes:

Motion to Approve the Minutes of July 27, 2012 Meeting - Council Member Carmean

Second - Council Member Bunting

DISCUSSION – Council Member Weistling advised of a typographical errors: Captain ~~Time~~ Tim Ferry; Council Member Carmean requested a change regarding the removal of fines:...that ~~she~~ the Chief of Police might possibly speak with the Chief Magistrate... .

Vote: All in favor to accept the minutes as amended (7-0)

Treasurer's Report:

Council Member Bunting advised the Town is showing a surplus of ~\$135,000 for FY12 that will help to pay for some projects that Council approved today. The Town audit will take place the week of September 24, 2012.

Motion to accept the Treasurer's Report – Council Member Tingle

Second – Council Member Langan

DISCUSSION - None

Vote: All in favor to accept the Treasurer's report (7-0)

Town Manager Report:

Town Manager Burke reported that:

- A letter from Brenda Shelton regarding mobi mats was received (copy attached).
- The Town has been awarded a grant from the Delaware Water and Land Trust to construct a kayak launch at the new Cannon Street park.
- The Town has completed its annual NIMS report as required by the Federal Government.
- Delmarva Power has completed replacing 50 lights and the Town is on a short list for LED lights.
- DEMA has closed the grant cycle for this year. The Town will apply in January 2013 for funding for a mobile fuel tank.

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Department Reports:

- Building Official – Patricia Schuchman advised that her report is included in the meeting packet.
 - Four properties are under construction currently.
 - She issued 5 Outside Contractor licenses, 6 Rental licenses and 12 Resident Merchant licenses.
 - She has received notification from the National Flood Insurance Program (NFIP) of a rate increase effective 10/1/2012. The increase will be between 2% and 10% for new or renewal policies. She expects the increase to average 5%.
 - Mrs. Schuchman thanked residents and commercial establishments for taking such good care of their properties this summer.
 - Public Works – Bryan Reed advised that his report is included in meeting packet.
 - The department has made a second herbicide application.
 - They are beginning work on drainage projects.
 - Fenwick Island Beach Patrol – Captain Tim Ferry reported that his report is included in the Council packet.
 - The patrol has had a total of 91 rescues, found 23 lost children, responded to 28 medical emergencies and used the ATV/wheelchair for transport 153 times.
 - The patrol has hired 2 more graduates of the Junior Lifeguard Program making a total of 6 alumni on staff.
 - Police Department – Chief Boyden reported that in addition to his report (included in Council booklet) the radar sign at the south side of town will be removed for maintenance.
 - The department has received ≈\$18,000 Federal Grant and will use the funds to purchase new body armor for all officers and some radios/safety equipment.
 - The \$25,000 County Grant will be used for operational expenses (fuel costs).
- Council Member Weistling noted that complaints have doubled over this time last year. Chief Boyden advised that July was a busy month but that they were mostly minor complaints that included stolen bicycles and assisting State and other agencies.

Committee Reports:

- Beach Committee – No report
- Environmental Committee – Chair Mary Ellen Langan reported that the committee continues to research a smoking ban for the beach.

Planning Commission: Report included in the booklet.

Charter & Ordinance

- **Proposed Second Reading Chapter 160-6A(9)(B) Zoning (Fences) – Council Member Weistling**

Council Member Weistling motioned that Council accept the proposed Second Reading (copy attached to these minutes)

Second – Council Member Tingle

DISCUSSION – Mayor Serio advised that a Public Hearing has been held prior to this meeting at which time no members of the public were in attendance to contest the change.

VOTE: All in favor (7-0) Smallwood – yes; Carmean – yes; Bunting – yes; Serio – yes; Weistling – yes; Tingle – yes; Langan – yes.

- **Proposed Second Reading Chapter 100 – Licensing – Council Member Weistling**

Council Member Weistling motioned that Council accept the proposed Second Reading (copy attached to these minutes)

Second – Council Member Carmean

DISCUSSION

Council Member Weistling advised that this change replaced the existing in its entirety. A separate “Declaration of Property Status” was included and fines have been changed.

VOTE: All in favor (7-0) Smallwood – yes; Carmean – yes; Bunting – yes; Serio – yes; Weistling – yes; Tingle – yes; Langan – yes.

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- **Proposed Second Reading Chapter 112 – Parking – Council Member Weistling**

Council Member Weistling motioned that Council accept the proposed First Reading (copy attached to these minutes)
Second – Council Member Carmean

DISCUSSION

Council Member Weistling advised that the change will provide added incentive to complete and return the rental status forms.

VOTE: All in favor (7-0) Smallwood – yes; Carmean – yes; Bunting – yes; Serio – yes; Weistling – yes; Tingle – yes; Langan –yes.

- Council Member Weistling advised that the Town has had an inquiry from a business wanting an electronic sign and believes that the Town Ordinance will require some fine-tuning. Building Official Schuchman noted that Town Ordinance allows for one sign per store or subdivision on the building itself and one main sign. A general discussion of other town's requirements followed. Mayor Serio asked council members to convey their concerns to Mrs. Schuchman and she will relay them to the Charter and Ordinance Committee.

Old Business

None

New Business – No Action to be Taken

- Council Member Weistling asked for an explanation of the ambulance service to be included in the Town Newsletter.
- Council Member Smallwood announced that the Beach Cleanup will be Saturday, September 15, 2012 at 9AM on Dagsboro Street beach.

Public Participation:

- Eileen Jacobs (11 E Farmington St) – asked Council to consider including funds in its budget for beach cleaning and was disappointed that there was no mobi mat on the Farmington Street beach crossover. Mayor Serio suggested that Mrs. Jacobs contact DNREC with her concerns about beach cleaning since the beach is under their jurisdiction. Town Manager Burke advised that DNREC did clean the beach once this spring but that the Public Works Department removed sea grass that had accumulated. Council Member Tingle suggested that the Town contact DNREC as well. Mobi mats for Farmington Street were approved at this meeting.
- Ben Waide (2 W Dagsboro St) – congratulated the Town on allowing movies on the beach. Mayor Serio suggested that citizens contact the Bethany-Fenwick Chamber of Commerce to let them know that more movies might be in order.
- Lynn Andrews (1205 Schulz Rd) – asked that the daffodil bulbs in the medians be divided and replanted.
- Dick Bowman (7 W Dagsboro St) – expressed concern that the lights on SR1 at RT 54 represent a pedestrian hazard. Town Manager Burke will contact DelDOT.

Upcoming Events and Meetings:

Mayor Serio announced all upcoming meetings and events.

Motion to adjourn – Council Member Tingle

Second – Council Member Bunting

Meeting adjourned at 5:14 PM.

Agnes DiPietrantonio, Town Clerk
for Diane Tingle, Secretary

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NOTICE

On August 24, 2012 The Fenwick Island Town Council
Passed the Following Resolution #58-2012
Tree Canopy Density Goal

Whereas, Title 3, Chapter 10, Subchapter III, of the Delaware Code authorizes Delaware Municipalities to prepare a Comprehensive Urban Forest Resource Plan for the purposes of encouraging the most appropriate uses of the physical and fiscal resources of the municipality and coordinating municipal growth, development and infrastructure investment actions with those of other municipalities, counties and the State to grow and protect forest resources; and

Whereas, The Town of Fenwick Island, Charter Section 26, declares that the Town shall have the powers to direct and regulate the planting, rearing, treatment and preserving of ornamental shade trees in the streets, highways, avenues, parks and public grounds in said Town and to authorize and prohibit the removal or destruction of said trees; and

Whereas, Delaware's Forest Service Urban and Community Forestry Program provides guidance to municipalities in order to effectuate the goal of having well-drawn and executed Comprehensive Urban Forest Resource Plans for all of Delaware's municipalities; and

Whereas, The Fenwick Island Town Council, in consultation with the Delaware Department of Agriculture Urban Forestry Division, have determined the existing forest canopy density for The Town to be 5.52% and desire to significantly grow this resource to further articulate the Town's commitment to preserving and enhancing forest resources;

Therefore, the Town Council, of the Town of Fenwick Island, do hereby recognize the Town's existing tree canopy density of 5.52% and commit to developing and implementing a plan to grow the resource to 10% or greater over the next 10 years as part of the Town's continued commitment to preserving and enhancing its natural resources.

Attest: _____
Agnes D. DiPietrantonio, Town Clerk

Audrey Serio, President of Council

Diane B. Tingle, Council Secretary

I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the President and Council at a meeting on August 24, 2012 at which a quorum was present and voting throughout and the same is still in force and effect.

Date

Diane B. Tingle, Council Secretary

To: Mr. Win Abbott

Ms. Audrey Serio

From: Ms. Brenda Shelton

Date: 7/29/2012

Re: Houston Street Beach Entrance

I just wanted to thank you for placing the beach mats on the dunes at Houston Street. It is very much appreciated by me and my neighbors. It makes it so much easier for me to be able to walk over unto the beach. I have had a total knee replacement which makes walking in the sand harder but walking up the dune, coming and going to the beach, was quite difficult. The mats have made it much easier for me.

Thank you again,



Brenda Shelton

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Proposed First Reading – July 27, 2012

Proposed Second Reading: August 24, 2012

Approved: August 24, 2012

Proposed First Reading: July 27, 2012

Proposed Second Reading: August 24, 2012

Approved: August 24, 2012

Chapter 160-6A(9)(b):

EXISTING:

(b) An exception to Subsection A(9)(a) above is that a fence, wall, hedge, partition or other such structure along the rear lot line within the limits of any lot zoned commercial which fronts on Route 1, and/or along the corresponding property line in the Residential Zone comprising such property line, shall be permitted, not to exceed seven feet in height above the curb or crown level of the adjoining street of such structure, except that, in the case of corner lots fronting on Route 1, the structure from the side street property line to a point 25 feet in from said property line shall not exceed four feet in height above the curb or crown level of the adjoining street of such structure. A solid foundation or retaining wall for such structure shall be permitted, not to exceed two feet in height above the crown of the side streets adjacent to the commercial property. The remainder of the fence, wall, partition or other such structure shall not be solid but shall have openings approximately 20% to 30% of the total surface area to provide for the flow-through of air. A detailed design drawing of the structure shall be submitted with the application for a building permit.

PROPOSED:

(b) An exception to Subsection A(9)(a) above is that a fence, wall, hedge, partition or other such structure along the rear lot line within the limits of any lot zoned commercial which fronts on Route 1, and/or along the corresponding property line in the Residential Zone comprising such property line, shall be permitted, not to exceed seven feet in height above the curb or crown level of the adjoining street of such structure, except that, in the case of corner lots fronting on Route 1, the structure from the side street property line to a point 15 feet in from said property line shall not exceed four feet in height above the curb or crown level of the adjoining street of such structure. A solid foundation or retaining wall for such structure shall be permitted, not to exceed two feet in height above the crown of the side streets adjacent to the commercial property. The remainder of the fence, wall, partition or other such structure shall not be solid but shall have openings approximately 20% to 30% of the total surface area to provide for the flow-through of air. A detailed design drawing of the structure shall be submitted with the application for a building permit.

Replace in its entirety:

CHAPTER 100 – LICENSING

§ 100-1. License requirement.

No person shall operate, maintain or otherwise engage in any business, occupation or activity designated hereafter in this chapter without first obtaining a license from the town. Licenses shall be issued only to allowable businesses, occupations or activities set forth in Chapter 160. Zoning and shall pay the Town an annual fee as set by resolution of the Town Council from time to time.

§ 100-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ESTABLISHMENT - A building or part thereof, or each motor vehicle, or each stand, at or from which any merchandise or commodities are dispensed, or facilities or services are provided, to members of the general public.

PERSON - Includes firms, companies, corporations, partnerships, associations, as well as individuals.

§ 100-3. License year.

The license year shall begin January 1 and end December 31 of each calendar year.

§ 100-4. License requirement before start of business.

Annual licenses must be obtained prior to opening, starting or continuing any business, occupation or activity as described in this chapter for any license year.

§ 100-5. Posting of licenses.

All licenses issued under this chapter shall be posted in a public place in the establishment, at the place of business for which it is issued, or, as the case may be, shall be carried on the person of the licensee.

§ 100-6. Form of license; records to be kept.

The Town shall prescribe the form of the establishment license certificate and vending and/or music machine license certificate to be issued to applicants and keep full and complete records of all licenses issued and the expiration dates thereof and the license fee charged.

§ 100-7. Determination of license class.

Whenever the Town Manager is unable to determine the class and fee for a license application, the Town Manager shall refer the application to the Town Council for disposition.

POSTED: August 27, 2012

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§ 100-8. License fees.

A. Any person engaged, for profit, in selling any and all merchandise and/or given commodities and/or in providing facilities, services, rental units and/or food service within the Town at or from any given establishment as follows including but not limited to:

- (1) Each establishment used as a restaurant or eating establishment or carry-out food establishment.
- (2) Each establishment used for real estate sales or rentals.
- (3) Each establishment for sale of any merchandise and/or commodities and/or combination thereof.
- (4) Each establishment used as a bank or lending institution.
- (5) Each concession that operates in Town and/or on the beach.

B. Any person within the Town engaged, for profit, in providing services for use or entertainment as follows shall pay the Town a fee as set by resolution of the Town Council from time to time:

- (1) For each person engaged in building, altering, repairing, remodeling, constructing and/or maintenance of buildings.
- (2) For each person providing services and/or materials doing business in the town.

C. Any person engaged for profit in renting motel/hotel rooms or suites of rooms, single-family dwellings, townhouses, apartments or any real property, or portion thereof, within the Town shall pay an annual license fee as set by resolution of the Town Council from time to time.

D. Each establishment offering for public use the following shall pay a fee as set by resolution of the Town Council from time to time:

- (1) Vending machines/dispensing machines, subject to the conditions that all vending machines shall be permitted as a part of licensed establishments only and shall be operated by and under the control of the establishment licensee. All vending machines shall be located within buildings of licensed establishments or, if located outside such buildings, shall not project beyond the front building line or into the side or rear yards, and must be located not more than one foot from the exterior wall of such buildings.
 - (a) Each drink, food or candy machine.
 - (b) Each ice machine.
 - (c) Each cigarette machine.
 - (d) Each newspaper or U.S. Postage Stamp machine.
 - (e) Dispensing machine other than provided in Subsection D(1)(a), (b), (c) and (d) above.
- (2) Music machines operated by depositing money, slug or similar medium in the machine, subject to the conditions that all music machines shall be permitted as a part of licensed establishments only and shall be operated by and under the control of the establishment licensee, and all music machines shall be allowed only inside totally enclosed buildings of licensed establishments, and during operation of such machines all windows and doors shall be kept closed so that the sound cannot be heard outside the buildings.
- (3) In order to preserve the peace and good order of the Town and the health, welfare and safety of the people of the town, coin-operated amusement machines in a single commercial establishment or any form of game machine, instrument or apparatus not prohibited under the law of the State of Delaware shall be permitted as a part of licensed establishments only and shall be operated under the control of the establishment licensee, shall be incidental and subordinate to the main business of the establishment for which the establishment is licensed, and all such machines shall be allowed only inside totally enclosed buildings of licensed establishments, and the number of such machines shall be limited to three such machines per licensed establishment.
- (4) Children's riding amusements shall be permitted in a single commercial establishment only. They shall be permitted as a part of the licensed establishment and shall be operated under the control of the establishment licensee, shall be incidental and subordinate to the main business of the establishment for which the establishment is licensed. The number of such shall be limited to one per licensed establishment. The children's riding amusements are limited to small electrically operated devices built for a maximum of four children. Such devices may include a riding horse, stagecoach or a rocket, but do not include the multi-child rides customarily located in an amusement park.

E. All of the above license fees in this subsection shall be in addition to any establishment license fees. Any person engaged for profit in providing services within the town, which services provided in the Town of Fenwick Island and elsewhere gross \$1,500 or less annually shall not pay an annual fee to the Town as set by resolution of the Town Council from time to time:

- (1) Nonresidents of the Town of Fenwick Island.
- (2) Residents and property owners of the Town of Fenwick Island: no fee; however, all provisions of Chapter 160, Zoning, concerning Residential Zone restrictions shall be adhered to.

F. Persons engaged in the delivery only of unmetered commodities and/or material; as well as persons engaged in providing at the properties of the property owners of the Town professional services, including and limited to health services and land-surveying services for which the State of Delaware requires certification and a license, shall not be required to obtain a Town license.

§ 100-9. Applications for licenses.

A. Applications for establishment licenses shall be addressed to the Town in writing, verified by oath or affirmation signed by the applicant. Each applicant shall give the following information:

- (1) The home or business address of the applicant.
- (2) If the applicant is a partnership, the names and addresses of the individuals composing the partnership.
- (3) If the applicant is a corporation, the names and addresses of the principal officers of the corporation.
- (4) A full description of the nature of the business or enterprise for which the license is required.
- (5) A plot plan of the premises if the license fee is determined by the square footage, together with the calculation of the area.
- (6) A statement that the applicant has complied with all laws and ordinances of the Town of Fenwick Island and that all taxes and assessments due the Town of Fenwick Island upon the property which the licensee will operate, if any, are paid.
- (7) Authorization for the town, its agents and employees to seek information and conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant for the license.
- (8) Written declaration by the applicant, under penalty of perjury, that the information contained in the application is true and correct, with said application being duly dated and signed in the town.
- (9) In the case of a license application for vending, music or amusement machines, an itemized list of all machines to be licensed and the name of the licensed establishment where the machines are to be used.
- (10) In the case of an application by a property owner for a business license to rent a single-family dwelling, townhouses, or apartment, and in the case of an application by a realtor for a business license, a statement that the applicant will inform all prospective tenants of the maximum overnight occupancy for each dwelling, townhouse, or apartment, such maximum not to exceed 12 persons, and that the applicant will assure compliance with such maximum occupancy. Prior to the issuance of a license, each property owner must also complete any and all application forms required by the Town, including, but not limited to, the Declaration of Property Status for Rental and Non-Rental Property Owners form.
 - (a) Property owners who provide the town, by December 31, 2001, satisfactory written documentation that they offered and contracted, prior to June 22, 2001, to rent their single-family dwelling during the calendar year 2001 with a specific overnight maximum occupancy of more than 12 persons will be allowed to continue such practice for a period of up to two years starting January 1, 2002.

B.

(Reserved)

§ 100-10. When taxes or assessments are due.

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No license shall be issued under this chapter to be used upon the premises upon which any taxes or assessment due the Town of Fenwick Island are due but not paid.

§ 100-11. License business to be lawful.

It shall be a condition to the issuance of any and all licenses under this chapter that the business, occupation or activity licensed shall be used and operated only for lawful purposes. The right of the Town Council of Fenwick Island, Delaware, in its discretion, to refuse to grant any license and to revoke any license previously granted is hereby specifically reserved.

§ 100-12. Issuance or refusal of license.

A. Upon the receipt of an application completed in good order, the Town Manager shall examine such application and shall ascertain by such examination whether the activities indicated and described are in accordance with the requirements of this chapter and all other pertinent laws and ordinances.

B. If the Town Manager is satisfied that the activities described in the application for license and the information filed therewith conform to the requirements of this chapter and other pertinent laws and ordinances, the Town Manager shall issue a license to the applicant.

C. If the application for a license describes an activity or contains information which does not conform to the requirements of this chapter or other pertinent laws or ordinances, the Town Manager shall not issue a license, but shall return the application to the applicant with his refusal to issue such license. Such refusal shall, when requested, be in writing and shall contain the reasons therefor.

§ 100-13. Charitable institutions.

No license fee shall be charged for a license issued to a charitable or public service institution, association, club or body not organized and conducted for private gain, nor shall the Town be charged for licenses.

§ 100-14. Suspension or revocation of license.

A. Any license issued pursuant to this chapter shall be subject to suspension or revocation by the Town Manager for violation of any provision of this chapter or for any grounds that would warrant the denial or issuance of such license in the first place. The Town Manager, upon revocation or suspension, shall state his reasons in writing and specify the particular grounds for such revocation or suspension.

B. In the case of a rental license issued to a single-family residential property owner, such license may be revoked if there been three or more cases during a calendar year of violations of either § 100-9A(10) of this chapter (overnight occupancy by more than 12 persons) or § 107-2A of Chapter 107 (noise disturbance). Oral and written notice of each such violation will be given to the licensed property owner and his/her realtor. Such license revocation may be immediate, or deferred to the entire rental season for the following year, or both.

C. In the case of a mercantile license for a realtor, which license includes the renting of single-family residential properties on behalf of property owners, an application for such a license to rent in a given calendar year will be denied if, in the previous calendar year, the licenses for three or more rental properties under a realtor's management were revoked according to the conditions specified in Subsection B above.

§ 100-15. Violations and penalties.

Whoever shall violate any provisions of this chapter shall, upon conviction thereof, be subject to a fine of \$200. Each day that a business, occupation or activity is carried on, prosecuted, conducted or engaged in without a proper license having been obtained pursuant to this chapter shall be deemed to be a separate offense. In accordance with § 160-9A(10), each property owner must also complete any and all application forms required by the Town, including, but not limited to, obtaining a Town rental license and submitting the Declaration of Property Status for Rental and Non-Rental Property Owners form. A violation of the rental licensing provisions of the Town's Code shall result in a fine of 200.00 for each day that the violation exists.

§ 100-16. Appeals.

Any person aggrieved by a decision of the Town Manager may, within 15 days, take a written notice of appeal to the Town Manager. Upon payment of a fee as set by resolution of the Town Council, the Town Manager shall forward the appeal and all paperwork to the Secretary of Town Council who shall set a date, time and place of the hearing of the appeal no more than 15 days from the receipt of the appeal. Notice of the appeal shall be sent to the appellant and published in a newspaper of local circulation at least seven days prior to the scheduled hearing.

POSTED: August 27, 2012

Proposed First Reading: July 27, 2012

Proposed Second Reading: August 24, 2012

Approved: August 24, 2012

Chapter 112-5 – Parking

ADD:

H. The Town shall have the right to deny parking permits to any property owner who has not completed the Declaration of Property Status for Rental and Non-Rental Property Owners form as provided in § 160-9A(10) for each calendar year that the form is not returned.

I. Anyone having a delinquent tax or other financial obligation due the Town shall be denied parking permits until the obligation is satisfied.

POSTED: August 27, 2012